

WHITE PAPER

ANALYSIS OF THE PEACE OFFICER AND PROSECUTOR TRAINING FUND

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Executive Summary

The purpose of this document is to increase the knowledge of all Georgia stakeholders relating to the administration of training funds collected under the “Peace Officer and Prosecutor Training Fund” (POPTF). This fund was established by an Amendment to the state constitution¹ that was passed by a majority of the voters in 1978. The intent and purpose of the Amendment was to increase the professionalism of policing in Georgia, through enhanced training and the establishment of professional standards.

In 1983, enabling legislation was passed for this constitutional amendment. The legislation directed all courts to assess an additional 10% charge on fines and forfeitures, with that money being placed into the POPTF. Citizens of Georgia, as well as law enforcement professionals, believed that both the constitutional amendment and the subsequent legislation set Georgia on a path for increased effectiveness in the state’s law enforcement profession - the only profession whose members are endowed with the measured authority to restrict the lives and liberty of those they serve. Unfortunately, the administration of the POPTF has not been entirely used for the purpose for which it was designed.

It is the goal of this document to clarify the original intent of the POPTF; to illustrate the value of law enforcement executive training; and to discuss implications for the future if the funds intended to provide law enforcement training are not used for that purpose. An appendix with all legislation relating to the POPTF is attached to this document.

History of the Peace Officer and Prosecutor’s Training Fund (POPTF)

The Peace Officer and Prosecutor Training Fund Act (the POPTF Act) of 1983 was enacted by the Georgia General Assembly for the purpose of providing funds for the training of law enforcement and prosecutorial officers.² The Act imposes an additional fee of 10%, up to \$50, on all criminal and traffic cases (with the exception of failure to wear seatbelt violations) in which a fine is imposed or a bond is required. For example, if a person were fined \$100, the person would be required to pay \$110, with the additional \$10 being paid into the POPTF. Clerks or another court officer of all courts except juvenile courts are required to assess, collect, and remit the POPTF fee to the state.³

¹ 1978 Vol. 1 -- Page: 2310 Sequential Number: 438 CONSTITUTIONAL AMENDMENT

² O.C.G.A. § 15-5-24

³ *Follow-Up Review Prepared For The Budgetary Responsibility Oversight Committee, Peace Officer and Prosecutor Training Fund, October 2003*

In 1978, the voters of Georgia passed a Constitutional referendum that would authorize a fine assessment for the purpose of collecting revenue to pay for peace officer and prosecutor training.⁴ That Amendment read as follows:

Shall the Constitution be amended so as to authorize the General Assembly to provide for additional penalty assessments in criminal cases and provide that the proceeds derived there from may be used for the purpose of providing training to law enforcement officers and prosecuting officials?

The Amendment passed by a vote of 269,765 Yes, and 218,476 No. The passage was recorded in the Georgia Archives, p. 1853. After passing, the Constitution of the State of Georgia was amended through Article 3, § 9, par. VI(d), which then provided:

As provided by law, additional penalties may be assessed in any case in which any court in this state imposes a fine or orders the forfeiture of any bond in the nature of the penalty for all offenses against the criminal and traffic laws of this state or of the political subdivisions of this state. The proceeds derived from such additional penalty assessments may be allocated for the specific purpose of meeting any and all costs, or any portion of the cost, of providing training to law enforcement officers and to prosecuting officials.”

After the Constitution was modified, the Georgia General Assembly passed enabling legislation that was necessary to begin the collection of the fine and forfeiture money.⁵ That section of law has been modified several times since 1983, and now is codified as Official Code of Georgia Annotated, §§ 15-21-70 through 77. The short title of the latest version is “Peace Officer, Prosecutor, and Indigent Defense Funding Act.”

The collection of fees has been ongoing since 1984, and by 2003 the fund had accumulated almost \$287 million.⁶ Using the information available at <http://www.georgiacourts.gov> which was

⁴ Acts and Resolutions of the General Assembly of the State of Georgia, 1978 Resolutions of the General Assembly of the State of Georgia, 1978 Proposing Amendments to the Constitution of Georgia 1978 Vol. 1 -- Page: 2310, Sequential Number: 438

⁵ Acts and Resolutions of the General Assembly of the State of Georgia 1983, 1983 Vol. 1 -- Page: 1094 Sequential Number: 244

⁶ *Follow-Up Review Prepared For The Budgetary Responsibility Oversight Committee, Peace Officer and Prosecutor Training Fund*, October 2003, Page 2

set up by the Administrative Office of the Courts, the POPTF has generated almost half a billion dollars in revenue since 1984.

The Importance and Value of Law Enforcement Executive Training

Training of all law enforcement officers is important. In 1985, the State of Georgia specifically recognized the value of law enforcement executive training when legislation was enacted requiring heads of law enforcement agencies to receive 20 hours of mandatory executive level training each year. Additional legislation was passed in 1989 which mandated that all heads of law enforcement agencies attend a 40 hour executive training class, subsequently changed to 60 hours, for new heads of law enforcement agencies. This training is selected and provided by the Georgia Association of Chiefs of Police.

The need for law enforcement executive training has never been more important than it is today. The challenges faced by law enforcement executives are more complicated and varied than ever. Chief executives must be able to navigate the muddy waters of personnel management, while following all of the appropriate policies, state laws and federal statutes. Agency heads must understand and respond appropriately to demands from the public, administrators, politicians and agency staff. In addition, crime patterns and criminal behavior continue to evolve and change. Chief executives must stay on the cutting edge of technology, enforcement strategies and crime trends to be an effective leader and to uphold their responsibilities to the communities they serve.

The Georgia Association of Chiefs of Police (GACP) provides the most current executive level training available in the nation. The chief executives in Georgia have a distinct advantage over most states where training is concerned. Georgia requires a specific number of continuing education hours for each law enforcement executive, but this requirement is not true in most states. In addition, the 60 hour executive training class is required in Georgia, but not required in most states. As a result, the Georgia Association of Chiefs of Police has produced a cadre of professionally trained law enforcement executives who are recognized nationally as leaders in their field of specialty. All heads of law enforcement agencies take the knowledge they receive and use it all across Georgia to professionalize the departments they work for and to improve the quality of life for the citizens they serve.

The training classes provided by the GACP primarily occur at the Summer Training Conference and the Winter Training Conference. In addition, the association also sponsors assorted other training classes which are held in various locations across the state for law enforcement executives. It is through this well thought out process that the heads of law enforcement agencies receive their 20 hours of required executive training each year. The Georgia Association of Chiefs of Police also hosts the 60 hour executive training class for new heads of law enforcement agencies twice a year to accommodate those who need the class (who, per Georgia law, are required to attend the program).

Current Funding Under the POPTF

O.C.G.A. § 15-21-77 (Collections to be appropriated for law enforcement or prosecutorial officers' training) provides that:

An amount equal to the net proceeds derived under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section 15-21-73 in the immediately preceding year shall be appropriated to fund law enforcement or prosecutorial officers' training, or both, and activities incident thereto, including, but not limited to, payment or repayment to the state treasury for capital outlay, general obligation bond debt service, administrative expenses, and any other expense or fund application which the General Assembly may deem appropriate. This Code section shall not preclude the appropriation of a greater amount for this purpose. (Highlighting added.)

The reality, however, is that a significant amount of funding has been diverted from law enforcement and prosecutor training. According to the House Budget Office, the Senate Budget Office, and the Georgia Archives, an accounting of the POPTF over a 22 year period is as follows:

Total Funds Collected 1987-2009	\$429,768,218
Total Funds Appropriated 1987-2009	\$358,648,136
Total Funds Used for Other than Peace Officer and Prosecutor Training Purposes	\$ 71,000,082

This is a significant amount of funding that is sorely needed by law enforcement and prosecutors to maintain the high quality of training to which they are entitled and concurrently, the high level of professionalism in our law enforcement executives.

A review of the numbers makes it clear that local law enforcement receives only about 20% of what they contribute to the POPTF for training. Eighty percent (80%) is used for other state (non-local) expenses, such as training state corrections officials. Of course, these expenses are important and necessary, but it was not the intent of the public that the 10% fine add on money would be used for these purposes. It is doubtful that the voters or legislators are aware that the 1978 constitutional amendment earmarking this money is being used for other purposes.

The budget dollars for each agency reflect State Budget Dollars only and do not include any Federal Grant Funds.

Training Costs and Requirements

As has been discussed, the POPTF was created to provide training for peace officers and prosecutors in Georgia through funds generated by add-on fees to fines and bail bonds. On average, \$27 million is generated in each fiscal year. While these fines are levied as a result of law enforcement action conducted primarily by local law enforcement, and prosecuted in city and county courts, virtually all of the funding goes to train state agency law enforcement officers. All local law enforcement training is financed by the counties and cities. While about \$10 million was appropriated to the Georgia Public Safety Training Center in FY 2009 for state officer training, the remaining \$16 million was redirected to the state's General Fund to be used for unrelated purposes. No funding was appropriated for local officer training.

The level of training required of new police chiefs or agency heads of city, county, state, university/campus, marshals and other law enforcement departments is set by law. See, O.C.G.A. §§ 35-8-20 (1) and 35-8-20. It is not optional - it is mandatory.

For all new agency heads, basic chief executive training consists of 60 hours. Additionally, each police chief/law enforcement agency head is required to attend 20 hours of in-service training each year to maintain their arrest authority. This training is selected and provided or approved by the GACP, which is mandated by law to provide the training. GACP approves only upper-level supervision or management training programs. All approved training is earmarked, and is designed to save the local jurisdictions and their taxpayers money not only by paying for the training itself, but by reducing liability through insuring the integrity of the training. This results in the agency head being better able to help protect and serve the citizens of the State of Georgia, as required by their oath of office.

Training for the Chief Executive Training Program (the 60 hour course) takes place at the GACP training facility located in Duluth, Georgia. The facility can accommodate 50 students. The Police Chief/Law Enforcement Agency Head must attend the first available 60 hour training program after becoming the agency head, or they will lose their arrest authority which ultimately has the result of losing their POST Certification. The agency head receives a small amount of money to offset the cost of hotels and other per diem expenses such as food if they work more than 60 miles from the training location. The employer must pay the agency head's salary and travel to and from the training site. At this time, because of budgets cuts at the state level, the maximum given for this 8 day program is \$423.00 which amounts to a mere \$53.50 per day. Given that the state travel reimbursement policy (considering "high cost" areas which apply to GACP conferences in cities such Atlanta and Savannah) is at \$131 per day (\$36.00 for meals; \$95.00 for hotel), the current reimbursement rate for GACP members is at 41%. It drops even further down with mileage.

With respect to in-service training, GACP conducts two major training conferences each year; typically, the summer training conference in Savannah and the winter training conference in Atlanta. The employing agency must pay for all of the costs associated with this training, but it allows the agency head to meet the mandated 20 hours of annual training.

Currently, there are more than 570 police chiefs/heads of law enforcement agencies that fall under the Chief's Act. This number does not include sheriffs. Over the past three years, the number of training hours delivered to or approved for agency heads is as follows:

2009 - 23,366 Hours
2010 - 26,432 Hours
2011 - 23,800 Hours

The strength of the GACP training process is unquestionable and can be seen through tangible results. For example, GACP has lowered law enforcement agencies' liability through its training programs, resulting in insurance rates often being reduced. Many times this is due to the high standards being met by agencies as they obtain State Certification or national accreditation status.

All of the instructors used by GACP are subject matter experts, usually current or former police chiefs, upper level managers and supervisors, criminal justice university professors, federal experts, and other business professionals, including attorneys. Although private consultants are used occasionally because of their unique expertise in high liability or sensitive topics, the GACP staff strives to provide many of the training programs without having to pay for trainers. Some examples of the training afforded through GACP is as follows:

Chief Executive Training Program (60 hours)
Managerial Liability - GACP General Counsel
EEOC Requirements
Leadership Management Role of the Police Chief
Staffing Allocations
Employee Performance
Employee Discipline
Departmental Organization
Policy Development
Open Records Act
Budgeting for Executives
Role of POST Council
Handling Line of Duty Deaths

Sample of Training Conference Programs
Obtaining Grants (CJCC/GOHS/DOJ)
Police Change Makers (Outside Consultant)
Terrorism Training
Intelligence Led Policing
Chief's Mentoring Programs
Legal Updates

An extensive list of programs that GACP has approved over the last year is available upon request.

The cost of law enforcement training for state officers spans across 16 state agencies, including the Department of Corrections, Georgia Bureau of Investigation, Georgia Department of Public Safety, and Department of Natural Resources. It also includes non-law enforcement agencies that have some law enforcement authority, such as the Departments of Regents, Revenue, and the Secretary of State's office. This training is provided through contracts with the Georgia POST Council and local counterparts, and through General Obligation Bond and Debt Service for agency equipment and overall maintenance of GPSTC facilities.

However, as a result of the economic downturn, less courses and schools are being offered and state agencies have been forced to try to garner federal or other funds to cover costs of the required training.

Current Implications of Training Fund Deficiencies

Nothing can be more important than the protection of the basic civil rights and civil liberties of our citizens, and officers must be properly trained to understand the high standard to which they will be held as they execute their law enforcement authority.

The best practices of every profession are subject to evolution and this is especially true for law enforcement, which is influenced by changes in codified law, case law, and professional standards benchmarks. Police chiefs set the standards for agency culture, and if the current path continues, Georgia may begin to see a deterioration in the professional standards of our police professionals due to the inability to attain sufficient amounts of quality of training. If funding is cut altogether, and professional standards are left to local budgetary restraints, this will result in a collective retreat to the kind of police behaviors and policies that began this very debate almost forty years ago. However, there are other critical implications to consider, including the cost to local governments, litigation, and treatment of our citizens.

For the vast majority of law enforcement officers in Georgia, the first cost of almost all training begins at the local level. This is especially true for advanced training. Even though Georgia has a significant asset in the Georgia Public Safety Training Center, budget cuts for that facility have resulted in costs being passed back to local agencies. Most local governments in Georgia are very small and have a meager amount of public funds. Even in the best of times, funds for law enforcement training in these jurisdictions are considered to be an ancillary need. Most agencies in this predicament are already forced to provide officers with the bare minimum of training, which is not a good place to be.

Further, because of the inherent risk associated with normal business functions of policing, the failure to properly address the training needs of law enforcement has always been costly—from

the possibility of injury and death to officers and innocent third parties, to liability costs incurred by local governments due to negligence. There is a growing concern that local governments may be forced to assume undue risk that could be mitigated by proper police training.

Winston Churchill said, “He who fails to plan is planning to fail.” Failing to train police is a plan to fail. When there is a bad outcome from any law enforcement-related incident, Georgia citizens look to find who was responsible. This is particularly true in the law enforcement profession because of the nature of the work: law enforcement actions can result in the loss of life, freedom, and civil liberties. Incidents and results are reviewed closely by many groups (individual agencies, elected officials, community review boards, community groups such as ACLU, NAACP, etc., attorneys, and various court systems).

Liability. In 1989, the United States Supreme Court issued a ruling in the case of the City of Canton v. Harris⁷ that provided clear guidelines for law enforcement liability as it relates to the training of its employees. In this specific case the agency, through written policy and practice, gave authority to an employee to evaluate and determine when an individual in custody would receive medical care. The agency did not provide the employee with the proper training to make the required evaluation and decision, which resulted in a bad outcome when he failed to provide needed medical access to a prisoner who needed it. The Supreme Court specifically outlined that agencies are liable when the failure to train personal amounts to “deliberate indifference.” There have been other cases decided since the Harris case, including Bryan County v. Brown⁸. In this case, the court found it possible to hold a municipality liable for failing to train even a single officer in a recurring act. This opens the door for a municipality being held liable for failing to train all of its officers in acts they know those officers will perform. If not trained properly, the result will likely be a constitutional violation of the rights of citizens of our state.

In 2000, a study was conducted by Darrell L. Ross of the East Carolina University at Greenville, North Carolina. In that study, Ross conducted a review 1,525 lawsuits brought under 42 U.S.C. § 1983, the federal Civil Rights statute, involved failure to train. This review showed that police administration prevailed in just less than 2/3 of the litigations and paid out an average \$450,000 per case. The amount did not include the time the department and administrators spent in preparation for the lawsuits. Nearly a quarter of the lawsuits involved excessive force claims and more than half arose from “hands on” actions.

Most jurisdictions in the State of Georgia would consider that \$450,000 average payout to be significant. To reduce the cost of liability insurance, many agencies have large deductibles that must be paid from city or county government funds prior to insurance paying the remaining balance. Smaller governments, as well as many larger governments who are experiencing budget cuts, would be severely negatively impacted if required to pay those deductibles. The results of these types of lawsuits would be an inability for the law enforcement agency to provide quality service to the

⁷ 489 US 378 (1989)

⁸ 520 U.S. 397 (1997)

communities they serve, due to a lack of funds. Most police agencies in the state of Georgia receive their operating budgets from state, county, or municipal taxes. In plain terms, this means that the community pays monetarily for the failure of the department to properly train their employees, and individual community members who are injured as a result of an incorrect action pay physically. A “Google” search for “police failure to train lawsuits” reveals 11,300,000 hits in .22 seconds. Clearly the failure to properly training officers is a significant issue.

Damage to Interagency Cooperation. Generally speaking, law enforcement agencies are tasked with operating in three broad areas of responsibility:

1. Enforcement – using arrest powers and investigating authority to prevent, interdict, and investigate crimes and to prosecute criminals; and
2. Maintaining social order - keeping the peace through public incident mediation, preempting behaviors which might disturb others, and provide public logistics, such as when a large scale event is occurring (e.g., Olympics, football games, etc.); and
3. Providing services – ranging from basic first aid to victim assistance to search and rescue.

Each law enforcement agency, with direction and oversight from its respective governing authority, must establish its own guiding principles and regulations by which to perform all of or a portion of these components. As such, there will continually be differences in the quality and thoroughness of services rendered as well as in the resources available to different agencies. Because of this, law enforcement agencies will occasionally, if not routinely, be requested / required to work with other law enforcement agencies, whether it be through short-term collaborative efforts with nearby local agencies or through long-term or multi-jurisdictional efforts.

A fluctuating commitment to training by an agency will significantly impact interagency cooperation. If cooperating agencies concur on their combined mission and on the underlying guiding principles on how the mission is to be accomplished, then the required personnel training will need to be consistent between and among the involved organizations. Otherwise, the differences in these commitments will inhibit that cooperation. This is particularly important in austere budget times: agencies must join forces to effectively combat crime.

Various studies have re-enforced this concept. See, e.g., “A Report on Interagency Cooperation,” [http://kirk-emerson.home.mindspring.com/Interagency Border Cooperation.pdf](http://kirk-emerson.home.mindspring.com/Interagency%20Border%20Cooperation.pdf). This document provides an assessment of how different federal agencies are tasked with different missions, while covering the same geographical areas along the U.S. / Mexico border in the American southwest. This article clarifies that different public service agencies with different missions, yet who are required at times to work together, frequently can be at odds because of different guiding missions and regulations. In such situations, the agencies can improve communication and even effective joint operations through training together, which leads to each agency garnering an appreciation for the goals, objectives, and missions of the other participating agencies.

Bringing this concept to a local level, area law enforcement agencies that routinely operate in close proximity to each other – and even share the same broad “law enforcement” duties for their respective jurisdictional areas – commonly deal with inhibited interagency cooperation. Many factors may contribute to this reduced ability to effectively work together, even when public safety events require it.⁹ However, in such situations, assuming that the mission is basically consistent, success depends primarily on training.

Other Implications. All officers must attend and complete basic law enforcement training. However, the failure to obtain specialized training directly affects investigations that are conducted and presented to prosecutors. Due to a lack of knowledge, opportunities to obtain evidence during both initial and follow up investigations may be lost or not documented sufficiently. When prosecutors are unable to prosecute suspects based on poorly completed and documented investigations, a miscarriage of justice can occur, resulting in the release of criminals back into the community. Although agencies generally are not sued for poor criminal investigations (except when a person's civil rights are violated during the investigation), they do lose credibility. This results in a loss of confidence by the community, a lack of information and support from the community, and even a reduction in budget. These erroneous line-ups, show-ups, and photo-arrays have resulted in our state awarding to several incarcerated individuals huge sums of money, amounting to millions of dollars being paid out at taxpayers’ expenses.

Updated training is just as important. Many agencies have smaller budgets and fewer employees to work with, but have the same amount of crime to address. It is not uncommon for training budgets to be the first to get cut in lean financial times. When officers don’t receive updated training on topics such as law updates, proactive policing, and other required basic skills training, the opportunity for civil violations grow as does the likelihood of successful lawsuits and dismissed cases.¹⁰

There is something tragically wrong when you consider the following. Currently Georgia POST requires a total of 408 hours (basic mandate classes) to become a certified law enforcement officer and only 20 hours of ongoing training per year to maintain that certification and the power of arrest.¹¹ However, in the State of Georgia it takes a total of:

⁹ Factors not relevant to training, such as political influences and territorial issues, are not discussed here.

¹⁰ This is particularly true with regard to the vast amount of material that must be provided in discovery under a number of seminal cases involving due process of law, i.e., *Jencks v. United States*, 353 U.S. 657 (1957); *Brady v. United States*, 397 U.S. 742 (1970); *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny. These cases apply to criminal cases in both the State and Federal judicial systems.

¹¹ Note: that if an officer does not receive his/her annual in-service training hours, he/she does not lose their certification, however, they lose their powers of arrest. That technicality is often the source of concern at POST Council. Additionally, every sworn peace officer since January 1,

- 1,500 classroom hours, a comprehensive test, and 3,000 hours of Apprenticeship to become a licensed Cosmetologist
- 525 classroom hours, a comprehensive test, and 1,050 hours of Apprenticeship to obtain a Nail Technician certification
- 500 classroom hours, a competency exam, with 24 hours of biennium continuing education for massage therapists

Thus, more training is required for a person to trim nails than for a person to carry a gun and have the power to arrest and to affect a person's life, liberty and property. Clearly law enforcement officers have a much greater chance of significantly impacting an individual's life through their profession than do cosmetologists, yet there is still a significant difference in the amount of training received and required. Although some law enforcement organizations recognize the minimum amount of mandated training and try to insure that their individual officers receive more hours of specialized training than required, this is done solely at the agency's expense. There are still many agencies that do not require more than the minimum standard, usually because of a lack of funding.

Consequences of Lowering the Level of Law Enforcement Professionalism

The diversion of legislatively mandated training funds, and what appears to be the imminent further reduction of those funds, likely will result in an overall lowering of the level of police professionalism in Georgia. There can be no question that this is not the desire of our citizens, our legislators, nor is it the desire of law enforcement professionals themselves. The professional standards for Georgia law enforcement are unparalleled in the United States of America, a fact which is recognized through conversation with law enforcement contemporaries throughout the country as well as with Federal agency counterparts and prosecutors. Reaching this level of professionalism has been a joint venture, requiring vision, skill, strategic planning and plain hard work to achieve the positive culture that exists today. There is, however, still work to be done and progress to be made; our citizens certainly expect continual improvement for "learning is not attained by chance; it must be sought with ardor and attended to with diligence."¹²

As we discuss the very real possibility of a lower standard of professionalism in the field of law enforcement, we first must consider what we have failed to learn from a historic perspective and why our failure to adequately address recognized issues has brought about such scrutiny. No less than two decades ago, the Independent Commission on the Los Angeles Police Department, informally known as "The Christopher Commission," was formed in the wake of the Rodney King beating. The Commission was created to conduct "a full and fair examination of the structure and operation of the LAPD," including its recruitment and training practices, internal disciplinary system, and citizen complaint system.

2006, must also have a minimum of two hours of firearms-related training per year. Actually, one hour should be devoted to practical firearms training and one hour should be devoted to use of force training.

¹² Abigail Adams

Some of the recommendations made by the Commission included complete documentation of excessive force issues and a requirement that LAPD use disciplinary tools to address the significant number of officers who appeared to be using force excessively and improperly. Other recommendations made by the Commission included that LAPD address the need to:

- Identify tangible ways to establish the principle that racism and bias based on ethnicity, gender, or sexual orientation will not be tolerated;
- Carefully implement community policing principles;
- Improve the recruitment process for and screening of all applicants;
- Periodically retest sworn personnel in order to determine both psychological and physical problems;
- Train supervisors to understand their role in supervising, training, and counseling officers to cope with the problems that policing entails, as well as to review assignment challenges;
- Improve promotional policies; and
- To review training issues and materials primarily related to the content, structure and training methods utilized as part of the Field Training Officer Program.¹³

The high profile cases of police brutality witnessed in recent years are not just media sensationalism. For every beating like Rodney King's that is caught on videotape, there are potentially hundreds of other victims of police brutality and the numbers are growing. In 1990, 62 people died at the hands of police. By 2003, that number had nearly doubled to 104, 11 years after the Christopher Commission recommendations were made.¹⁴

The initial question to be answered is why some law enforcement officers become involved in misconduct in the first place. This can occur for a variety of reasons which obviously cannot be addressed solely through training and educational opportunities. Obviously we must first look at core values that each individual holds, as best as possible, in the initial selection process. Other factors to consider as in the likelihood of an officer becoming involved in misconduct is the officer's family support structure, involvement in extracurricular activities outside the realm of police work, socioeconomic factors, level of physical fitness, and voluntary participation in faith based organizations. However, in addition to individual core values, we also must look at a department's commitment to proactively address seemingly minor infractions or policy violations before they reach the threshold of misconduct.

Training will, of course, increase our level of professionalism, and a stronger emphasis should be placed on the topic of ethics. Based on basic academy requirements, as established by the Georgia Peace Officers Standards and Training Council, the topic of law enforcement ethics is

¹³ While one would think that the outlined steps towards correcting these deficiencies would have been implemented immediately, the reforms were put on hold with the election of then Mayor Richard Riordan.

¹⁴ According to a study conducted by INQUEST, a charity that provides a free advice service to bereaved people on contentious deaths and their investigation with a particular focus on deaths in custody.

discussed only in a three hour block of instruction during a police cadet's eleven week certification process. This is grossly inadequate when you couple it with the fact that many departments do not offer continuous training on this topic on an annual basis, if at all.

Ongoing education and training will undoubtedly play a part in reducing incidents of police corruption while simultaneously increasing our real and perceived level of professionalism. But this is just a part of the equation. In order to attain this goal, effective leadership is crucial to influence members of a department and to set the standard for ethical behavior in the delivery of police services. Clear guidelines for ethical behavior must be set and reinforced, and only when an agency builds support for sound values in all members of the department while rewarding ethical behavior and punishing those who conduct themselves can this goal be reached.

There is little disagreement among law enforcement professionals that upholding the highest degree of ethics is the most critical issue facing our profession. From recruiting and selection, through promotions and assignments, to training and field activities, no other factor weaves such a powerful web through every aspect of policing. There is a critical need to heighten the awareness and visibility of our ethical standards, both internally and externally. Unlike other professions, law enforcement does not have a concise, powerful and universal process by which officers are able to periodically reaffirm their ethical values and beliefs. Although all officers take an individual oath of office, and others take an oath derived from the Law Enforcement Code of Ethics, neither of these processes lend themselves to continuous and convenient application in public and professional settings.

- State of Georgia P.O.S.T. mandated and other required training for law enforcement personnel establishes only the minimally required training. Every agency has the ability and responsibility to establish any additional / enhanced training, even on those same topics. To what level any enhanced training is implemented is entirely dependant upon the desires and mandates of the respective local agency. An example of this involves the federal mandate that law enforcement agencies train their personnel on NIMS (National Incident Management System). Though the mandated training provides only a rudimentary understanding of how the nationally adopted incident command system (ICS) should function, without regular on-going training on the system's protocols – or actual incorporation of ICS into the agency's operations - then an expectation that agency members will be effective in its use when the need arises to work with other agencies on a large-scale public safety event will be met with ineffective results. Basically, any law enforcement function or task can be applied to this same example and as such, when those differences in preparedness show themselves during multi-agency operations, especially if a lack of preparedness is revealed repetitively from an organization's personnel, then inter-agency cooperation is damaged.

The visual cause for the damaged cooperative relationship is easily identified as a lack of training and preparedness by one of the involved agencies. However, such situations commonly have even

deeper origins, the lack of commitment to solidified guiding principles and/or internal regulations regarding preparedness. In essence, training in and of itself will not ensure positive inter-agency cooperation within law enforcement. All initial and on-going training must be formulated and applied through an agency's professional commitment to completing its mission, with an appreciation for similar commitment being extended by other participants and stakeholders.

Conclusions and Recommendations

It is the position of the GACP that the full costs of all GACP training programs should be paid as required by law through the fine add-on monies. This would include paying for the annual summer and winter training conferences that provide the mandated chiefs' executive credit, and the basic executive agency head 60 hour course. Last year, GACP spent approximately \$650,000 to provide training to Police Chief/Law Enforcement agency heads, but the organization was reimbursed only \$240,000 from the state which also included a small amount to provide specific training for the State Certification Program.

In closing, there is a belief among law enforcement officials, justifiably or not, that with the 10% fine add-on money, the POPTF should cover the full cost for all local law enforcement training. This is the only way to insure effective, comprehensive and professional training to the officers of the State of Georgia.

Appendix

§ 15-21-70. Short title

This article shall be known as and may be cited as the "Peace Officer, Prosecutor, and Indigent Defense Funding Act."

HISTORY: Code 1981, § 15-21-70, enacted by Ga. L. 1983, p. 1094, § 1; Ga. L. 2005, p. ES3, § 5.

§ 15-21-71. Implementation of constitutional provision

This article is enacted in part pursuant to the authority of Article III, Section IX, Paragraph VI, subparagraph (d) of the Constitution of Georgia, which provision authorizes additional penalty assessments in criminal and traffic cases and provides that the proceeds derived therefrom may be used for the purpose of providing training to law enforcement officers and prosecuting officials.

HISTORY: Code 1981, § 15-21-71, enacted by Ga. L. 1983, p. 1094, § 1; Ga. L. 2005, p. ES3, § 5.

§ 15-21-72. Legislative intent

It is the intent of this article to provide funding for the training of law enforcement and prosecutorial officers and to make funds available for funding state indigent defense programs.

HISTORY: Code 1981, § 15-21-72, enacted by Ga. L. 1983, p. 1094, § 1; Ga. L. 2005, p. ES3, § 5.

§ 15-21-73. Penalty to be imposed in certain criminal and quasi-criminal and traffic cases and upon violation of bond

(a) (1) In every case in which any state court, probate court, juvenile court, police, recorder's, or mayor's court, municipal court, magistrate court, or superior court in this state shall impose a fine, which shall be construed to include costs, for any criminal or quasi-criminal offense against a criminal or traffic law, including civil traffic violations and violations of local criminal ordinances, of this state or political subdivision thereof, there shall be imposed as an additional penalty a sum equal to:

- (A) The lesser of \$50.00 or 10 percent of the original fine; plus
- (B) An additional 10 percent of the original fine.

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(2) At the time of posting bail or bond in any case involving a violation of a criminal or traffic law of this state or political subdivision thereof, an additional sum equal to:

(A) The lesser of \$100.00 or 10 percent of the original amount of bail or bond; plus

(B) The lesser of an additional \$100.00 or 10 percent of the original amount of bail or bond shall be posted. In every case in which any state court, probate court, municipal court, magistrate court, recorder's court, mayor's court, or superior court shall order the forfeiture of bail or bond, the additional amounts provided for in this paragraph shall be paid over as provided in Code Section 15-21-74.

(b) Such sums shall be in addition to that amount required by Code Section 47-17-60 to be paid into the Peace Officers' Annuity and Benefit Fund or Code Section 47-11-51 concerning the Judges of the Probate Courts Retirement Fund of Georgia and any other amounts provided for by law.

HISTORY: Code 1981, § 15-21-73, enacted by Ga. L. 1983, p. 1094, § 1; Ga. L. 1984, p. 22, § 15; Ga. L. 1987, p. 3, § 15; Ga. L. 1988, p. 286, § 1; Ga. L. 2005, p. ES3, § 5; Ga. L. 2008, p. 846, § 10/HB 1245.

§ 15-21-74. Assessment and collection of penalties; transfer of payments to Georgia Superior Court Clerks' Cooperative Authority; quarterly accounting

The sums provided for under paragraph (1) of subsection (a) of Code Section 15-21-73 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid over to the Georgia Superior Court Clerks' Cooperative Authority by the last day of the month there following, to be deposited by the authority into the general treasury. The sums provided for under paragraph (2) of subsection (a) of Code Section 15-21-73 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from forfeited bonds and shall be paid over to the Georgia Superior Court Clerks' Cooperative Authority by the last day of the month there following for remittance to the Office of the State Treasurer; provided, however, that if the local governing authority has an approved procedure to verify the applicant's income as set forth in Code Section 17-12-80, the court officer shall remit 50 percent of such funds to the Georgia Superior Court Clerks' Cooperative Authority, and the remaining 50 percent shall be remitted to the local governing authority and reported to the Georgia Superior Court Clerks' Cooperative Authority. The authority shall, on a quarterly basis, make a report and accounting of all funds collected and disbursed pursuant to this article and shall submit such report and accounting to the Office of Planning and Budget, the House Budget Office, and the Senate Budget Office no later than 60 days after the last day of the preceding quarter.

HISTORY: Code 1981, § 15-21-74, enacted by Ga. L. 1983, p. 1094, § 1; Ga. L. 1984, p. 22, § 15; Ga. L. 2005, p. ES3, § 5; Ga. L. 2008, p. VO1, § 1-6/HB 529; Ga. L. 2008, p. 846, § 11/HB 1245; Ga. L. 2010, p. 863, § 2/SB 296.

§ 15-21-75. Penalty for delinquent remission of moneys

Reserved. Repealed by Ga. L. 2005, p. ES3, § 5, effective June 15, 2004.

§ 15-21-76. Failure or refusal to remit moneys

Reserved. Repealed by Ga. L. 2005, p. ES3, § 5, effective June 15, 2004.

§ 15-21-77. Collections to be appropriated for law enforcement or prosecutorial officers' training

An amount equal to the net proceeds derived under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section 15-21-73 in the immediately preceding year shall be appropriated to fund law enforcement or prosecutorial officers' training, or both, and activities incident thereto, including, but not limited to, payment or repayment to the state treasury for capital outlay, general obligation bond debt service, administrative expenses, and any other expense or fund application which the General Assembly may deem appropriate. This Code section shall not preclude the appropriation of a greater amount for this purpose.

HISTORY: Code 1981, § 15-21-77, enacted by Ga. L. 1983, p. 1094, § 1; Ga. L. 1984, p. 22, § 15; Ga. L. 2005, p. ES3, § 5; Ga. L. 2008, p. 846, § 12/HB 1245.